

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED

OCT 15 2002

Michael N. Milby, Clerk

MARK NEWBY, et al.,

Plaintiffs,

v.

ENRON CORPORATION, et al.,

Defendants.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO: H-01-3624
AND CONSOLIDATED CASES

**THE NORTHERN TRUST COMPANY'S STATEMENT OF OPPOSITION
TO PLAINTIFFS' MOTION TO PRECLUDE THE FILING OR
PRODUCTION OF DOCUMENTS SUBJECT TO A PROTECTIVE ORDER**

The Northern Trust Company ("Northern Trust") submits this statement of opposition to Plaintiffs' Motion to Preclude the Filing or Production of Documents Subject to a Protective Order ("Plaintiffs' Motion"). Northern Trust is not a party to the captioned action, and its filing of this statement of opposition is not intended to constitute an appearance or intervention in *Newby*. Northern Trust is filing this statement of opposition solely because Plaintiffs' motion and proposed order implicate the *Tittle* action in which Northern Trust is a party. Also, as a practical matter, it is unlikely that different or inconsistent orders regarding confidentiality will be entered in *Newby* and *Tittle*. Consequently, Northern Trust is making its views regarding an appropriate protective order known to the Court through this filing.

Northern Trust agrees with plaintiffs that documents containing personal information are confidential and must be protected from public disclosure. Northern Trust disagrees with the balance of plaintiffs' position on the lack of need for a confidentiality and protective order in *Newby* and *Tittle*. The arguments against plaintiffs' position and in favor of a broader protective

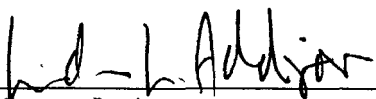
1082

order are fully and adequately briefed in the oppositions filed by the defendants in *Newby*. In the interest of brevity, Northern Trust adopts those arguments rather than repeating them.

The reality is that a protective order such as the one proposed with Certain Defendants Response in Opposition to Plaintiffs' Motion is standard operating procedure in complex litigation. Given the showing of good cause made by the defendants in *Newby* and the complete unworkability of the *in camera* review process suggested by plaintiffs, no legitimate reason exists for deviating from standard practice in *Newby* and *Tittle*.

Because the Court has signed the Order Establishing Document Depository and that order clearly contemplates the entry of an order regarding confidentiality in *Newby* and *Tittle*, the time is ripe for the entry of a protective order. Because the *Newby* plaintiffs have unequivocally stated that they will not agree to any protective order beyond the one they have already proposed, there is nothing to be gained by requiring the parties to confer further on the subject. Instead, the court should enter the confidentiality and protective order submitted with Certain Defendants Response in Opposition to Plaintiffs' Motion.

Respectfully submitted,

By: _____

LINDA L. ADDISON

State Bar No. 00903700

Federal I.D. No. 3430

REAGAN M. BROWN

State Bar No. 03162200

Federal I.D. No. 4644

1301 McKinney, Suite 5100

Houston, Texas 77010-3095

Telephone: (713) 651-5151

Facsimile: (713) 651-5246

**ATTORNEYS-IN-CHARGE FOR
DEFENDANT THE NORTHERN TRUST
COMPANY**

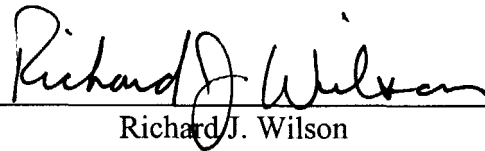
OF COUNSEL:

FULBRIGHT & JAWORSKI L.L.P.

RICHARD J. WILSON
MARK S. MILLER
LUCAS T. ELLIOT
MINDY HARPER
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
Telephone: (713) 651-5100
Facsimile: (713) 651-5246

CERTIFICATE OF SERVICE

I certify that a true and correct copy of The Northern Trust Company's Statement of Opposition to Plaintiffs' Motion to Preclude the Filing or Production of Documents Subject to a Protective Order was served on all counsel of record on the Service List on October 15, 2002 via posting to www.es13624.com in compliance with the Court's Order Regarding Service of Papers and Notice of Hearings Via Independent Website.


Richard J. Wilson